

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Enbridge  
Energy Limited Partnership for a Certificate  
of Need for the Line 67 Station Upgrade  
Project - Phase 2

**FIFTH  
PREHEARING ORDER**

This matter came before Administrative Law Judge Eric L. Lipman upon the Petition for Intervention of Honor the Earth.

Kevin Walli and John R. Gasele, Fryberger, Buchanan, Smith & Frederick, P.A., and Arshia Javaherian, Senior Counsel, Enbridge Energy, Limited, appeared on behalf of Enbridge Energy Company, Inc. (Enbridge).

Julia Anderson and Peter Madsen, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce, Energy Regulation and Planning Unit (DOC-DER).

Paul C. Blackburn, Law Offices of Paul C. Blackburn, appeared on behalf of the Sierra Club and MN350.

Jon Erik Kingstad, Law Offices of Jon Erik Kingstad, appeared on behalf of Donald and Anna Dyrdal.

Winona LaDuke, Executive Director, appeared on behalf of the petitioning intervenor, Honor the Earth.

Based upon the submissions of the parties and the contents of the record,

**IT IS HEREBY ORDERED:**

1. The Petition for Intervention is **GRANTED**.
2. By **4:30 p.m. on Monday, February 17, 2014**, Honor the Earth shall file in the eDocketing system a statement identifying:
  - (a) an attorney-at-law that will represent the corporation in these proceedings;

- (b) a representative that qualifies for one of the exceptions which authorize representation of a corporation by a non-attorney under Minn. Stat. § 481.02; or,
- (c) a statute or Commission rule that would permit a non-attorney to represent a corporate party to a certificate of need proceeding.

3. The changes to the service list to reflect Honor the Earth's party status will await these later filings.

Dated: January 29, 2014

s/Eric L. Lipman  
ERIC L. LIPMAN  
Administrative Law Judge

## MEMORANDUM

A review of Minnesota's attorney licensing records suggest that Ms. LaDuke, Honor the Earth's Executive Director, is not licensed to practice law in this state.

It likewise appears that the intervention rules for Certificate of Need proceedings are different than they are for proceedings for a pipeline routing permit. The Certificate of Need rules require corporate entities, like Honor the Earth, to be represented by a licensed attorney, unless an exception to the statute governing the unauthorized practice of law applies.<sup>1</sup>

Matters relating to the "siting of large electric power generating plants, the routing of high voltage transmission lines" and pipeline routing permits, by contrast, are governed by the representation rules found in Minnesota Rules Chapter 1405.<sup>2</sup> Minn.

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<sup>1</sup> See, Minn. R. 1400.5800 ("Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice *if not otherwise prohibited as the unauthorized practice of law*") (emphasis added) and Minn. R. 7829.2500, subp. 8 ("Once a [Certificate of Need] filing is referred for a contested case proceeding, the rules of the Office of Administrative Hearings shall control intervention rights") (Certificate of Need Filing); see also, NOTICE AND ORDER FOR HEARING, MPUC Docket No. 13-153, at 6 (September 17, 2013) ("Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57 to 14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400").

<sup>2</sup> See, Minn. R. 1405.0300 (Scope and Purpose), Minn. R. 7852.0200 ("This chapter is adopted under authority granted in Minnesota Statutes, section 216G.02, to implement review procedures for the routing of pipelines that give effect to the purposes of the act") and Minn. R. 7852.1700 (Public Hearings) ("The commission shall follow the hearing procedure prescribed in chapter 1405").

R. 1405.1400, for example, allows a corporate entity to be represented by the person of its choice in routing proceedings.<sup>3</sup>

Unless a statutory exception applies, if Honor the Earth wishes to retain its party status in this matter it will need to appear by way of a licensed attorney.

**E. L. L.**

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<sup>3</sup> See, Minn. R. 1405.0200, subp. 4 ("Person" means an individual ... private or public corporation, association or society ... or any other entity, public or private, however organized"); Minn. R. 1405.1400, subp. B ("all persons may be represented by legal counsel, but such representation is not required").